3 Rulings Strike At Held-Up Funds

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By Timothy S. Robinson
Washington Post Staff Writer

Three federal judges issued rulings yesterday aimed at stopping Nixon administration attempts to withhold more than $650 million in federal money that had been authorized by Congress for three separate federal programs.

Two of the rulings here in District Court merely ordered the money set aside for safekeeping so it would not revert back to the Treasury Saturday night, the end of the fiscal year.

The other ruling, by U.S. District Judge Leonard I. Garth in Newark, N.J., ordered the government to spend $239 million in Neighborhood Youth Corps fund by the end of the fiscal year.

The rulings follow by one day an order by U.S. District Judge William B. Jones here that the Office of Economic Opportunity process some 600 grant applications by Saturday.

The rulings here yesterday:

• U.S. District Judge Joseph C. Waddy ordered the government to set aside $380 million in federal funds for elementary and secondary education. The suit was filed by Pennsylvania, later joined by Nebraska, Texas, Nevada, Oklahoma, Hawaii, Wisconsin and Washington State.

The suit claimed that the U.S. Office of Education had not released all of the money appropriated under the Elementary and Secondary Education Act, Vocational Education Act, and the Adult Education Act. Many of the programs affected involve low-income children.

Judge Waddy said the states had "demonstrated a substantial likelihood of success on the merits" and said the money should be obligated for possible future use instead of reverting to the Treasury.

JOSEPH C. WADDY
. . . escrow for funds

If the states lose their suit, however, Waddy made it clear that his order could be vacated. Nothing in the court's order is intended to require expenditure of the sums obligated . . . Should the plaintiffs

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fail to prevail on the merits . . . the funds [could] revert to the general fund," Waddy said.

• U.S. District Judge Gerhard A. Gesell ordered Health, Education and Welfare Secretary Caspar W. Weinberger to process applications for grants for Community Mental Health Centers.

That processing had stopped on Feb. 23 on the order of a HEW budget official, after President Nixon said in his fiscal 1973 budget that no new staffing grants would be awarded.

Affected were grants for more than $51 million, according to the various plaintiffs in the suit, led by the National Council of Community Mental Health Centers.

Gesell's ruling asked that the funds be retained and earmarked for the grants by Saturday night, and added that it is "highly probable" that the plaintiffs will prevail on the merits of the suit.

In Newark, Judge Garth went one step further to order the Neighborhood Youth Corps program to spend $239 million by Saturday night. At that time, the money—expected to give 609,000 summer jobs to youths across the nation—would have reverted to the Treasury.

"There is no doubt it was the unequivocal intention of Congress that the amount be appropriated," Garth said. "This is no raid on the public treasury. It is just action required to release appropriated funds."

Nixon administration officials in each instance have refused to spend the money authorized by Congress, stating that impoundment was necessary because of the state of the economy.

In oral arguments in the mental health suit Wednesday, however, Judge Gesell said the President is in the position of spending money on what he wants to spend it on instead of what he has to spend it on as ordered by Congress.

For example, he said the amount for money involved for mental health centers was about one-fifth the cost of a fighter plane.

"Congress felt something should be done about mental health — more than about bombing Cambodia," Judge Gesell said, in reference to Congress' vote to end the air war there.